

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

**JAMES FIELDS, JR.,**

**Plaintiff,**

**v.**

**MEDICAL ARMOR, et al.,**

**Defendants.**

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**Case No. CIV-14-64-F**

**REPORT AND RECOMMENDATION**

Plaintiff, a state prisoner appearing pro se, has filed a Motion For Leave To Proceed *In Forma Pauperis*, ECF No. 18. Pursuant to an order entered by United States District Judge Stephen P. Friot, this matter has been referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). Having reviewed said motion, the undersigned finds that Plaintiff has sufficient funds to prepay the filing fee of \$400.00. Specifically, the record reflects that the Plaintiff has \$659.58 in his inmate savings account which is available for the payment of filing fees. Because Plaintiff does not qualify for authorization to proceed without prepayment of the filing fee, it is recommended that Plaintiff's Motion, **ECF No. 18**, be **DENIED** and that he be ordered to prepay the full \$400.00 filing fee for this action to proceed. 28 U.S.C. § 1915(a)(1). *Lister v. Department of the Treasury*, 408 F.3d 1309, 1312 (10<sup>th</sup> Cir. 2005) (magistrate judge should issue a report and recommendation when denying motion to proceed *in forma pauperis*.).

It is further recommended that this action be dismissed without prejudice to re-filing unless Plaintiff pays the \$400.00 filing fee in full to the Clerk of the Court within twenty (20) days of any order adopting this Report and Recommendation.

Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of Court by **April 4, 2014**, in accordance with 28 U.S.C. § 636 and Fed. R. Civ. P. 72. Plaintiff is further advised that any failure to make timely objection to this Report and Recommendation waives the right to appellate review of the factual and legal issues addressed herein. *Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10<sup>th</sup> Cir. 2010).

**This report and recommendation terminates the referral to the undersigned Magistrate Judge unless and until the matter is re-referred.**

**ENTERED** on March 18, 2014.

  
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SHON T. ERWIN  
UNITED STATES MAGISTRATE JUDGE